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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

AARON GORMAN, an individual, on behalf
of himself, and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

DRUMMAC, INC., a Florida corporation;
MORAN ENVIRONMENTAL RECOVERY,
LLC, a Delaware limited liability company;
MORAN TOWING CORPORATION, a New
York corporation; and DOES 1 through 50,
Inclusive.

Defendants.

Case No. 34-2022-00313456

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL**

Date: June 2, 2023
Time: 9:00 a.m.

Judge: Hon. Lauri A. Damrell
Dept.: 28

1 Plaintiff's motion for an order finally approving the Stipulation of Settlement of Class Action
2 and PAGA Claims and Release of Claims ("Agreement") and Motion for Class Counsel Award and
3 Class Representative Service Awards duly came on for hearing on June 2, 2023, before the above-
4 entitled Court. Zakay Law Group, APLC and the JCL Law Firm, APC appeared on behalf of
5 Plaintiff AARON GORMAN ("Plaintiff"). Fisher Phillips, LLP appeared on behalf of Defendants
6 DRUMMAC, INC., MORAN ENVIRONMENTAL RECOVERY, LLC, and MORAN TOWING
7 CORPORATION (hereinafter "Defendants").

8 **I.**

9 **FINDINGS**

10 Based on the oral and written argument and evidence presented in connection with the
11 motion, the Court makes the following findings:

12 1. All capitalized terms used herein shall have the same meaning as defined in
13 the Agreement.

14 2. This Court has jurisdiction over the subject matter of this litigation pending
15 in the California Superior Court for the County of Sacramento ("Court"), Case No. 34-2022-
16 00313456, entitled *Gorman v. Drummac, Inc., et al.*, and over all Parties to this litigation, including
17 the Class.

18 **Preliminary Approval of the Settlement**

19 3. On February 17, 2023, the Court granted preliminary approval of a class-wide
20 settlement. At this same time, the court approved certification of a provisional settlement class for
21 settlement purposes only. The Court confirms this Order and finally approves the settlement and
22 the certification of the Class.

23 **Notice to the Class**

24 4. In compliance with the Preliminary Approval Order, the Notice Packet was
25 mailed by first class mail to the Class Members at their last known addresses on March 22, 2023.
26 Mailing of the Notice Packet to their last known addresses was the best notice practicable under the
27 circumstances and was reasonably calculated to communicate actual notice of the litigation and the
28

1 proposed settlement to the members of the Class Members. The Court finds that the Notice Packet
2 provided fully satisfies the requirements of California Rules of Court, rule 3.769.

3 5. The Response Deadline for opting out or objecting was May 6, 2023. There
4 was an adequate interval between notice and deadline to permit Class Members to choose what to
5 do and act on their decision. No Class Members objected. No Class Members requested exclusion.

6 **Fairness Of the Settlement.**

7 6. The Agreement provides for a Gross Settlement Amount of \$360,000.00.
8 The Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48
9 Cal.App.4th 1794, 1801.)

10 a. The settlement was reached through arms-length bargaining between
11 the Parties. There is no evidence of any collusion between the Parties in reaching the proposed
12 settlement.

13 b. The Parties' investigation and discovery have been sufficient to allow
14 the Court and counsel to act intelligently.

15 c. Counsel for all parties are experienced in similar employment class
16 action litigation and have previously settled similar class claims on behalf of employees claiming
17 compensation. All counsel recommended approval of the Settlement.

18 d. The percentage of objectors and requests for exclusion is small. No
19 objections were received. No requests for exclusion were received.

20 e. The participation rate is high. All Class Members will be
21 participating in the Settlement and will be sent settlement payments.

22 7. The consideration to be given to the Class Members under the terms of the
23 Agreement is fair, reasonable, and adequate considering the strengths and weaknesses of the claims
24 asserted in this Action and is fair, reasonable, and adequate compensation for the release of the
25 Released Class Claims and Released PAGA Claims, given the uncertainties and risks of the
26 litigation and the delays which would ensue from continued prosecution of the Action.

27 8. The Agreement is finally approved as fair, adequate, and reasonable and in
28 the best interests of the Settlement Class Members.

1 **Attorneys' Fees and Litigation Expenses**

2 9. The Agreement provides for a Class Counsel Award in the amount of up to
3 One Hundred and Twenty Thousand Dollars and Zero Cents (\$120,000.00). Subject to Court
4 approval, the Class Counsel Award consists of attorneys' fees equal to one-third (1/3) of the Gross
5 Settlement Amount, or One Hundred and Twenty Thousand Dollars and Zero Cents (\$120,000.00)
6 and reimbursement of costs and expenses in the amount of Twenty-Five Thousand Dollars and Zero
7 Cents (\$25,000.00).

8 10. One Hundred and Thirty-Six Thousand Ninety-Seven Dollars and Twenty-
9 Five Cents (\$136,097.25) for the Class Counsel Award comprised of one-third of the Gross
10 Settlement Amount, or One Hundred and Twenty Thousand Dollars and Zero Cents (\$120,000.00)
11 and reimbursement of incurred costs and expenses in the amount of Sixteen Thousand ninety-seven
12 dollars and Twenty-Five Cents(\$16,097.25), which includes estimated filing fees for the Final
13 Approval Motion and Motion for Class Counsel Award and Representative Service Award, is
14 reasonable in light of the contingent nature of Class Counsel's fee, the hours worked by Class
15 Counsel, and the results achieved by Class Counsel. The requested attorneys' fee award represents
16 1/3 of the common fund, which is reasonable and at the low end of the range for fee awards in
17 common fund cases and is supported by Class Counsel's lodestar.

18 **Class Representative Service Awards**

19 11. The Agreement provides for Class Representative Service Awards of Ten
20 Thousand Dollars and Zero Cents (\$10,000) to Plaintiff, subject to the Court's approval. The Court
21 finds that the amount of Ten Thousand Dollars and Zero Cents (\$10,000.00) to Plaintiff is reasonable
22 in light of the risks and burdens undertaken by the Plaintiffs in this class action litigation.

23 **Settlement Administration Costs**

24 12. The Agreement provides for Settlement Administration Costs to be paid in
25 an amount not to exceed \$9,000.00. The Declaration of the Settlement Administrator provides that
26 the actual claims administration expenses were \$9,000.00. The amount of this payment is
27 reasonable in light of the work performed by the Settlement Administrator.

1 II.

2 **ORDERS**

3 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

4 1. The Class is certified for the purposes of settlement only. The Settlement
5 Class is hereby defined to include all employees who are or previously were employed by
6 Defendants in California and who were classified as non-exempt employees (“Class”) during the
7 period from January 4, 2018 to October 12, 2022 (“Class Period”).

8 2. Every person in the Class who did not submit and timely and validly Request
9 for Exclusion is a Settlement Class Member. There were zero Requests for Exclusion submitted by
10 the Class Members.

11 3. The Agreement is hereby approved as fair, reasonable, adequate, and in the
12 best interest of the Class. The Parties are ordered to effectuate the Settlement in accordance with
13 this Order and the terms of the Agreement.

14 4. One Hundred and Thirty-Six Thousand Ninety-Seven Dollars and Twenty-
15 Five Cents (\$136,097.25) for the Class Counsel Award comprised of one-third of the Gross
16 Settlement Amount, or One Hundred and Twenty Thousand Dollars and Zero Cents (\$120,000.00)
17 and reimbursement of incurred costs and expenses in the amount of Sixteen Thousand ninety-seven
18 dollars and Twenty-Five Cents(\$16,097.25), which includes estimated filing fees for the Final
19 Approval Motion and Motion for Class Counsel Award and Representative Service Award, is
20 reasonable in light of the contingent nature of Class Counsel’s fee, the hours worked by Class
21 Counsel, and the results achieved by Class Counsel. Class Counsel shall not seek or obtain any other
22 compensation or reimbursement from Defendants, Plaintiff, or members of the Class.

23 5. The payment of the Class Representative Service Award to the Plaintiff
24 Aaron Gorman in the amount of \$10,000.00 is approved.

25 6. The payment of \$9,000.00 to the Settlement Administrator for Settlement
26 Administration Costs is approved.

27 7. The PAGA Settlement of \$20,000.00 is hereby approved as fair, reasonable,
28 adequate and adequately protects the interests of the public and the LWDA. Further, the Court finds

1 that Plaintiff and Class Counsel negotiated the PAGA Settlement at arms-length, absent of any fraud
2 or collusion.

3 8. Final Judgment is hereby entered in this action. The Final Judgment shall
4 bind each Settlement Class Member. The Final Judgment shall operate as a full release and discharge
5 of Defendants from all Released Class Claims as defined in the Agreement. To the extent employees
6 are required to “opt-in” to have this release be deemed effective under federal law, the acceptance
7 and negotiation of any settlement check shall be deemed effective for that purpose.

8 9. Final Judgment shall also bind Plaintiff, acting on behalf of the State of
9 California and all PAGA Members, pursuant to the California Labor Code Private Attorneys’
10 General Act (“PAGA”) and shall release Defendants from all Released PAGA Claims as defined in
11 the Agreement.

12 10. The term “PAGA Members” is hereby defined as all employees who are or
13 previously were employed by Defendant in California and who were classified as non-exempt
14 employees during the PAGA Period. The PAGA Period means the period between October 25,
15 2020 to October 12, 2022.

16 11. In addition to the release given by each Settlement Class Member, Plaintiff
17 also generally releases Defendants from any and all claims as set forth in the General Release by
18 Plaintiff in the Agreement.

19 12. The Agreement is not an admission by Defendants, nor is this Final Approval
20 Order and Judgment, a finding of the validity of any claims in the Action or of any wrongdoing by
21 Defendants. Neither this Final Approval Order, the Settlement, nor any document referred to herein,
22 nor any action taken to carry out the Settlement is, may be construed as, or may be used as an
23 admission by or against Defendants of any fault, wrongdoing, or liability whatsoever. The entering
24 into or carrying out of the Agreement, and any negotiations or proceedings related thereto, shall not
25 in any event be construed as, or deemed to be evidence of, an admission or concession with regard
26 to the denials or defenses by Defendants and shall not be offered in evidence in any action or
27 proceeding against Defendants in any court, administrative agency or other tribunal for any purpose
28 as an admission whatsoever other than to enforce the provisions of this Final Approval Order and

1 Judgment, the Settlement, or any related agreement or release. Notwithstanding these restrictions,
2 any of the Parties may file in the Action or in any other proceeding this Final Approval Order and
3 Judgment, the Agreement, or any other papers and records on file in the Action as evidence of the
4 Settlement to support a defense of res judicata, collateral estoppel, release, or other theory of claim
5 or issue preclusion or similar defense as to the claims being released by the Settlement.

6 13. Notice of entry of this Final Approval Order and Judgment shall be given to
7 Class Counsel on behalf of Plaintiffs and all Class Members. It shall not be necessary to send notice
8 of entry of this Final Approval Order and Judgment to individual Class Members and the Final
9 Approval Order and Judgment shall be posted on Settlement Administrator's website as indicated
10 in the Notice Packet.

11 14. After entry of Final Judgment, the Court shall retain jurisdiction to construe,
12 interpret, implement, and enforce the Settlement, to hear and resolve any contested challenge to a
13 claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in
14 connection with the distribution of settlement benefits.

15 15. If the Settlement does not become final and effective in accordance with the
16 terms of the Settlement, resulting in the return and/or retention of the Gross Settlement Amount to
17 Defendants consistent with the terms of the Settlement, then this Final Approval Order and
18 Judgment, and all orders entered in connection herewith shall be rendered null and void and shall
19 be vacated.

20
21 **IT IS SO ORDERED.**

22 DATED: _____, 2023
23
24

25 _____
26 Hon. Lauri A. Damrell
27 Judge, Superior Court for the State of California,
28 County of Sacramento